

AMENDED IN SENATE JUNE 14, 2006

AMENDED IN ASSEMBLY APRIL 24, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2125**

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**Introduced by Assembly Member Vargas**

February 21, 2006

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An act to amend Sections 673, 677, 923.5, 1063.1, 1063.5, 1215.13, 1656, 1676, 1679, 1707, 1733, 1749, 1775.4, 1808, 11521.6, 11558, and 11629.85 and to add Sections 881.2, 1064.13, and 11549 to, the Insurance Code, and to amend Section 12253 of the Revenue and Taxation Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2125, as amended, Vargas. Insurance.

Existing law regulates the business of insurance.

This bill would make numerous changes in the law regulating insurance. Among other things, it would revise provisions relating to cancellation and reinstatement of financed insurance, *codify current departmental policy regarding agents of nonresident licensees, as specified*, modify insurer liquidation procedure, and change the definition of “commercially domiciled insurer” for purposes of regulating insurance holding companies. *The bill would also provide that the commissioner may approve a name using the words “savings bank” if the entire title show that the insurer is engaged in the business of insurance and is not a savings bank. Further, the bill would modify the definition of “insolvent insurer” and modify the California Insurance Guarantee Association refund policy.* This bill would also allow the commissioner to create an examination for life

agents solely for funeral and burial policies, as specified. This bill would also provide for the merger of foreign and domestic mutual holding companies, eliminate a minimum reserve requirement for workers' compensation carriers, as specified, require surplus lines brokers who make late monthly payments of ~~premiums~~ *premium* taxes to pay interest, as specified. This bill would also revise provisions that require the commissioner to prepare and propose a plan regarding ~~low cost~~ *low-cost* automobile insurance to the relevant Senate and Assembly committees, as specified.

This bill would also make technical, nonsubstantive changes in the law.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 673 of the Insurance Code is amended  
 2 to read:  
 3 673. (a) As used in this section, "exercise the right to cancel"  
 4 means the act of formally electing to use the right of the insured  
 5 to cancel any insurance policy in accordance with and subject to  
 6 the provisions of that policy when the right to use that right of the  
 7 insured has been transferred or assigned by the insured in writing  
 8 executed by, or on behalf of, the insured to a lender who has  
 9 advanced to the insurer the premium for the policy. The transfer  
 10 or assignment may be by power of attorney or other document.  
 11 The transfer or assignment may, but need not, be accompanied  
 12 by an assignment of any unearned premium due the insured on  
 13 cancellation.  
 14 (b) No lender shall exercise the right to cancel a financed  
 15 insurance policy because of the default of the insured under a  
 16 premium payment loan agreement except in accordance with this  
 17 section.  
 18 (c) Written notice of the exercise of the right to cancel shall be  
 19 mailed by the lender to the insurer and to the insured at the  
 20 address shown on the premium payment loan agreement or his or  
 21 her last known address, specifying a date five days or more after  
 22 the date of mailing of such notice as the effective date of  
 23 cancellation. Any insurer may, in writing delivered to the lender,  
 24 waive, generally or specifically, the right to receive such notice

1 or notices. A copy of such notice may be mailed to the producer  
2 of record if known to the lender, but failure to do so shall not  
3 affect any rights granted by this section. This subdivision shall  
4 not apply to an industrial loan company.

5 (d) An industrial loan company shall, in giving the insured 10  
6 days' notice of its intent to cancel pursuant to Section 18608 of  
7 the Financial Code, furnish a copy of such notice to the insurance  
8 agent or insurance broker indicated on the premium finance  
9 agreement. After expiration of the 10-day period, the industrial  
10 loan company may thereafter, in the name of the insured, cancel  
11 the insurance contract or contracts by mailing to the insurer a  
12 written notice of cancellation, and the insurance contract shall be  
13 canceled as if the notice of cancellation had been submitted by  
14 the insured person, but without requiring the return of the  
15 insurance contract or contracts. The industrial loan company  
16 shall also mail a notice of cancellation, setting forth the effective  
17 date of cancellation of the finance insurance contract, to the  
18 insured at his or her last known address and to the insurance  
19 agent or insurance broker indicated on the premium finance  
20 agreement. For the purposes of this subdivision, the words  
21 "premium finance agreement" shall have the same meaning as  
22 that specified in Section 18564 of the Financial Code.

23 (e) A written exercise of that right containing a confirmation  
24 of the effective date of cancellation shall be mailed by the lender  
25 to the insurer within five days following that effective date of  
26 cancellation specified in the notice described in subdivision (c)  
27 unless the insured has cured any and all defaults. Cancellation  
28 shall be effective on the financed insurance policy without  
29 requiring the return of the insurance policy or insurance policies,  
30 except as provided in subdivisions (f) and (g), on the  
31 confirmation date specified in the written exercise of that right.  
32 This subdivision shall not apply to an industrial loan company.

33 (f) All statutory, regulatory, and contractual restrictions  
34 providing that the financed insurance policy may not be canceled  
35 unless notice is given to a governmental agency, mortgagee, or  
36 other third party shall apply where cancellation is effected under  
37 this section. The insurer shall give the prescribed notice on behalf  
38 of itself or the insured to any governmental agency, mortgagee,  
39 or other third party on or before the fifth business day after the  
40 day it receives the written exercise of cancellation right

1 containing confirmation of the cancellation date from the lender,  
2 as provided in subdivision (e), or a written notice of cancellation  
3 from an industrial loan company, pursuant to subdivision (d), and  
4 shall, for the purpose of the notice, determine the effective date  
5 of cancellation as to those persons mentioned in this subdivision  
6 only, taking into consideration the number of days' notice  
7 required to complete the cancellation.

8 (g) Whenever such a financed insurance policy is canceled by  
9 any party for any reason:

10 (1) The insurer shall, in accordance with the written  
11 agreements of which it has notice, return to the lender such  
12 unearned premiums as are due to the lender. The amount of the  
13 return premiums shall be based upon the confirmed date of  
14 cancellation specified in subdivision (e), or upon the written  
15 notice of cancellation specified in subdivision (d) in the case of  
16 an industrial loan company, lessened by the amount, if any, to  
17 compensate equitably the insurer for carrying the risk of loss as  
18 to any governmental agency, mortgagee, or other parties  
19 specified in subdivision (f) from that date to the effective date of  
20 cancellation as to those parties.

21 (2) When a financed insurance policy is canceled, or the  
22 insured discontinues payments to a lender, the insurer shall  
23 calculate the return premium on a pro rata basis. This paragraph  
24 shall not apply to any policy issued under an assigned risk plan  
25 or to any policy with respect to which the insurer has made a loan  
26 to the insured for the purposes of payment of premiums for the  
27 policy.

28 (h) The commissioner may amend the rules and regulations of  
29 any assigned risk plan, fair plan, or similar plan to provide for the  
30 equitable assignment of insurance risks among insurers now in  
31 existence or hereafter established, in such manner as may be  
32 necessary to carry out the purposes of this section.

33 (i) A lender which sends a written exercise of cancellation  
34 right or a written notice of cancellation to an insurer, as provided  
35 in subdivision (c), or subdivision (d) in the case of an industrial  
36 loan company, thereby represents that he or she has a valid right  
37 ~~so to do~~ to do so and to receive the unearned premium. If the  
38 lender thereby accomplishes the cancellation and receives an  
39 unearned premium, such representation shall be conclusive as  
40 between the insurer and the lender. An insurer relying upon the

1 written exercise of that right containing a confirmation of  
2 cancellation date and giving, when applicable, notice as required  
3 by subdivision (e), shall be relieved from complying with any  
4 other duty or form of cancellation required by this code.

5 (j) This section shall not apply where the insurer exercises its  
6 own right to cancel the policy for nonpayment of premium, direct  
7 or indirect, or otherwise. Such a cancellation shall be subject to  
8 all applicable provisions of the policy, this code, except this  
9 section, and any rights of the lender of which the insurer has  
10 written notice.

11 (k) Whenever a lender or industrial loan company cancels a  
12 policy as described in this section and then requests the insurer to  
13 reinstate the policy, the insurer shall provide written notice by  
14 mail to the insured, agent/broker, and lender or industrial loan  
15 company within 15 days that the reinstatement has been accepted  
16 or rejected.

17 (l) This section shall apply only to contracts entered into  
18 between an insured and a lender on or after January 1, 1974.

19 SEC. 2. Section 677 of the Insurance Code is amended to  
20 read:

21 677. (a) All notices of cancellation shall be in writing, mailed  
22 to the named insured at the address shown in the policy, or to his  
23 or her last known address, and shall state, with respect to policies  
24 in effect after the time limits specified in Section 676, (1) which  
25 of the grounds set forth in Section 676 is relied upon, and, in  
26 accordance with the requirements of subdivisions (a) and (e) of  
27 Section 791.10, and (2) the specific information supporting the  
28 cancellation, the specific items of personal and privileged  
29 information that support those reasons, if applicable, and  
30 corresponding summary of rights.

31 (b) For purposes of this section, a lienholder's copy of those  
32 notices shall be deemed mailed if, with the lienholder's consent,  
33 it is delivered by electronic transmittal, facsimile, or personal  
34 delivery.

35 SEC. 2.5. Section 881.2 is added to the Insurance Code, to  
36 read:

37 881.2. Notwithstanding Section 5652 of the Financial Code,  
38 use of the term "savings bank" in a name or title may be  
39 approved for use by the commissioner if the remaining words in

1 *the name or title show that the insurer is engaged in the business*  
 2 *of insurance and is not a savings bank.*

3 SEC. 3. Section 923.5 of the Insurance Code is amended to  
 4 read:

5 923.5. Each insurer transacting business in this state shall at  
 6 all times maintain reserves in an amount estimated in the  
 7 aggregate to provide for the payment of all losses and claims for  
 8 which the insurer may be liable, and to provide for the expense of  
 9 adjustment or settlement of losses and claims.

10 The reserves shall be computed in accordance with regulations  
 11 made from time to time by the commissioner. The promulgation  
 12 of the regulations by the commissioner, or any changes thereto or  
 13 amendments thereof, shall be in accordance with the procedure  
 14 provided in Chapter 3.5 (commencing with Section 11340) of  
 15 Part 1 of Division 3 of Title 2 of the Government Code. The  
 16 commissioner shall make the regulations upon reasonable  
 17 consideration of the ascertained experience and the character of  
 18 such kinds of business for the purpose of adequately protecting  
 19 the insured and securing the solvency of the insurer.

20 With respect to liability and common carrier liability insurance,  
 21 the regulations shall be consistent with Section 11558.

22 The commissioner may prescribe the manner and form of  
 23 reporting pertinent information concerning the reserves provided  
 24 for in this section.

25 This section shall not apply to life insurance, title insurance,  
 26 disability insurance, mortgage insurance, or mortgage guaranty  
 27 insurance.

28 SEC. 3.5. Section 1063.1 of the Insurance Code is amended  
 29 to read:

30 1063.1. As used in this article:

31 (a) “Member insurer” means an insurer required to be a  
 32 member of the association in accordance with subdivision (a) of  
 33 Section 1063, except and to the extent that the insurer is  
 34 participating in an insolvency program adopted by the United  
 35 States government.

36 (b) “Insolvent insurer” means *an insurer that was a member*  
 37 *insurer of the association, consistent with paragraph (11) of*  
 38 *subdivision (c) of Section 10631.1, either at the time the policy*  
 39 *was issued or when the insured event occurred, and against*

1 which an order of liquidation or receivership with a finding of  
2 insolvency has been entered by a court of competent jurisdiction.

3 (c) (1) “Covered claims” means the obligations of an  
4 insolvent insurer, including the obligation for unearned  
5 premiums, (i) imposed by law and within the coverage of an  
6 insurance policy of the insolvent insurer; (ii) which were unpaid  
7 by the insolvent insurer; (iii) which are presented as a claim to  
8 the liquidator in this state or to the association on or before the  
9 last date fixed for the filing of claims in the domiciliary  
10 liquidating proceedings; (iv) which were incurred prior to the  
11 date coverage under the policy terminated and prior to, on, or  
12 within 30 days after the date the liquidator was appointed; (v) for  
13 which the assets of the insolvent insurer are insufficient to  
14 discharge in full; (vi) in the case of a policy of workers’  
15 compensation insurance, to provide workers’ compensation  
16 benefits under the workers’ compensation law of this state; and  
17 (vii) in the case of other classes of insurance if the claimant or  
18 insured is a resident of this state at the time of the insured  
19 occurrence, or the property from which the claim arises is  
20 permanently located in this state.

21 (2) “Covered claims” also include the obligations assumed by  
22 an assuming insurer from a ceding insurer where the assuming  
23 insurer subsequently becomes an insolvent insurer if, at the time  
24 of the insolvency of the assuming insurer, the ceding insurer is  
25 no longer admitted to transact business in this state. Both the  
26 assuming insurer and the ceding insurer shall have been member  
27 insurers at the time the assumption was made. “Covered claims”  
28 under this paragraph shall be required to satisfy the requirements  
29 of subparagraphs (i) to (vii), inclusive, of paragraph (1), except  
30 for the requirement that the claims be against policies of the  
31 insolvent insurer. The association shall have a right to recover  
32 any deposit, bond, or other assets that may have been required to  
33 be posted by the ceding company to the extent of covered claim  
34 payments and shall be subrogated to any rights the policyholders  
35 may have against the ceding insurer.

36 (3) “Covered claims” does not include obligations arising from  
37 the following:

38 (i) Life, annuity, health, or disability insurance.

39 (ii) Mortgage guaranty, financial guaranty, or other forms of  
40 insurance offering protection against investment risks.

1 (iii) Fidelity or surety insurance including fidelity or surety  
2 bonds, or any other bonding obligations.

3 (iv) Credit insurance.

4 (v) Title insurance.

5 (vi) Ocean marine insurance or ocean marine coverage under  
6 any insurance policy including claims arising from the following:  
7 the Jones Act (46 U.S.C.A. Sec. 688), the Longshore and Harbor  
8 Workers' Compensation Act (33 U.S.C.A. Sec. 901 et seq.), or  
9 any other similar federal statutory enactment, or any endorsement  
10 or policy affording protection and indemnity coverage.

11 (vii) Any claims servicing agreement or insurance policy  
12 providing retroactive insurance of a known loss or losses, except  
13 a special excess workers' compensation policy issued pursuant to  
14 subdivision (c) of Section 3702.8 of the Labor Code that covers  
15 all or any part of workers' compensation liabilities of an  
16 employer that is issued, or was previously issued, a certificate of  
17 consent to self-insure pursuant to subdivision (b) of Section 3700  
18 of the Labor Code.

19 (4) "Covered claims" does not include any obligations of the  
20 insolvent insurer arising out of any reinsurance contracts, nor any  
21 obligations incurred after the expiration date of the insurance  
22 policy or after the insurance policy has been replaced by the  
23 insured or canceled at the insured's request, or after the insurance  
24 policy has been canceled by the association as provided in this  
25 chapter, or after the insurance policy has been canceled by the  
26 liquidator, nor any obligations to any state or to the federal  
27 government.

28 (5) "Covered claims" does not include any obligations to  
29 insurers, insurance pools, or underwriting associations, nor their  
30 claims for contribution, indemnity, or subrogation, equitable or  
31 otherwise, except as otherwise provided in this chapter.

32 An insurer, insurance pool, or underwriting association may  
33 not maintain, in its own name or in the name of its insured, any  
34 claim or legal action against the insured of the insolvent insurer  
35 for contribution, indemnity or by way of subrogation, except  
36 insofar as, and to the extent only, that the claim exceeds the  
37 policy limits of the insolvent insurer's policy. In those claims or  
38 legal actions, the insured of the insolvent insurer is entitled to a  
39 credit or setoff in the amount of the policy limits of the insolvent  
40 insurer's policy, or in the amount of the limits remaining, where

1 those limits have been diminished by the payment of other  
2 claims.

3 (6) “Covered claims,” except in cases involving a claim for  
4 workers’ compensation benefits or for unearned premiums, does  
5 not include any claim in an amount of one hundred dollars (\$100)  
6 or less, nor that portion of any claim that is in excess of any  
7 applicable limits provided in the insurance policy issued by the  
8 insolvent insurer.

9 (7) “Covered claims” does not include that portion of any  
10 claim, other than a claim for workers’ compensation benefits,  
11 that is in excess of five hundred thousand dollars (\$500,000).

12 (8) “Covered claims” does not include any amount awarded as  
13 punitive or exemplary damages, nor any amount awarded by the  
14 Workers’ Compensation Appeals Board pursuant to Section 5814  
15 or 5814.5 because payment of compensation was unreasonably  
16 delayed or refused by the insolvent insurer.

17 (9) “Covered claims” does not include (i) any claim to the  
18 extent it is covered by any other insurance of a class covered by  
19 this article available to the claimant or insured nor (ii) any claim  
20 by any person other than the original claimant under the  
21 insurance policy in his or her own name, his or her assignee as  
22 the person entitled thereto under a premium finance agreement as  
23 defined in Section 673 and entered into prior to insolvency, his or  
24 her executor, administrator, guardian or other personal  
25 representative or trustee in bankruptcy and does not include any  
26 claim asserted by an assignee or one claiming by right of  
27 subrogation, except as otherwise provided in this chapter.

28 (10) “Covered claims” does not include any obligations arising  
29 out of the issuance of an insurance policy written by the separate  
30 division of the State Compensation Insurance Fund pursuant to  
31 Sections 11802 and 11803.

32 (11) “Covered claims” does not include any obligations of the  
33 insolvent insurer arising from any policy or contract of insurance  
34 issued or renewed prior to the insolvent insurer’s admission to  
35 transact insurance in the State of California.

36 (12) “Covered claims” does not include surplus deposits of  
37 subscribers as defined in Section 1374.1.

38 (13) “Covered Claims” shall also include ~~obligations~~  
39 *obligations* arising under an insurance policy written to  
40 indemnify a permissibly self-insured employer pursuant to

1 subdivision (b) or (c) of Section 3700 of the Labor Code for its  
2 liability to pay workers' compensation benefits in excess of a  
3 specific or aggregate retention, provided, however, that for  
4 purposes of this article, those claims shall not be considered  
5 workers' compensation claims and therefore are subject to the  
6 per claim limit in paragraph (7) and any payments and expenses  
7 related thereto shall be allocated to category (c) for claims other  
8 than workers' compensation, homeowners, and automobile, as  
9 provided in Section 1063.5.

10 These provisions shall apply to obligations arising under any  
11 policy as described herein issued to a permissibly self-insured  
12 employer or group of self-insured employers pursuant to Section  
13 3700 of the Labor Code and notwithstanding any other provision  
14 of the Insurance Code, those obligations shall be governed by  
15 this provision in the event that the Self-Insurers' Security Fund is  
16 ordered to assume the liabilities of a permissibly self-insured  
17 employer or group of self-insured employers pursuant to Section  
18 3701.5 of the Labor Code. The provisions of this paragraph apply  
19 only to insurance policies written to indemnify a permissibly  
20 self-insured employer or group of self-insured employers under  
21 subdivision (b) or (c) of Section 3700, for its liability to pay  
22 workers' compensation benefits in excess of a specific or  
23 aggregate retention, and this paragraph does not apply to special  
24 excess workers' compensation insurance policies unless issued  
25 pursuant to authority granted in subdivision (c) of Section 3702.8  
26 of the Labor Code, and as provided for in clause (vii) of  
27 paragraph (3) of subdivision (c). In addition, this paragraph does  
28 not apply to any claims servicing agreement or insurance policy  
29 providing retroactive insurance of a known loss or losses as are  
30 excluded in clause (vii) of paragraph (3) of subdivision (c).

31 Each permissibility self-insured employer or group of  
32 self-insured employers, or the Self-Insurers' Security Fund, shall,  
33 to the extent required by the Labor Code, be responsible for  
34 paying, adjusting, and defending each claim arising under  
35 policies of insurance covered under this section, unless the  
36 benefits paid on a claim exceed the specific or aggregate  
37 retention, in which case.

38 (A) If the benefits paid on the claim exceed the specific or  
39 aggregate retention, and the policy requires the insurer to defend  
40 and adjust the claim, the California Insurance Guarantee

1 Association (CIGA) shall be solely responsible for adjusting and  
2 defending the claim, and shall make all payments due under the  
3 claim, subject to the limitations and exclusions of this article with  
4 regards to covered claims. As to each claim subject to this  
5 paragraph, notwithstanding any other provisions of the Insurance  
6 Code or the Labor Code, and regardless of whether the amount  
7 paid by CIGA is adequate to discharge a claim obligation, neither  
8 the self-insured employer, group of employers, nor the  
9 Self-Insurers' Security Fund, shall have any obligation to pay  
10 benefits over and above the specific or aggregate retention,  
11 except as provided in subdivision (c).

12 (B) If the benefits paid on the claim exceed the specific or  
13 aggregate retention, and the policy does not require the insurer to  
14 defend and adjust the claim, the permissibility self-insured  
15 employer or group of self-insured employers, or the  
16 Self-Insurers' Security Fund, shall not have any further payment  
17 obligations with respect to the claim, but shall continue  
18 defending and adjusting the claim, and shall have the right, but  
19 not the obligation, in any proceeding to assert all applicable  
20 statutory limitations and exclusions as contained in this article  
21 with regard to the covered claim. CIGA shall have the right, but  
22 not the obligation, to intervene in any proceeding where the  
23 self-insured employer, group of self-insured employers, or the  
24 Self-Insurers' Security Fund is defending any such claim and  
25 shall be permitted to raise the appropriate statutory limitations  
26 and exclusions as contained in this article with respect to covered  
27 claims. Regardless of whether the self-insured employer or group  
28 of employers, or the Self-Insurers' Security Fund, asserts the  
29 applicable statutory limitations and exclusions, or whether CIGA  
30 intervenes in any such proceeding, CIGA shall be solely  
31 responsible for paying all benefits due on the claim, subject to  
32 the exclusions and limitations of this article with respect to  
33 covered claims. As to each claim subject to this paragraph,  
34 notwithstanding any other provision of the Insurance Code or the  
35 Labor Code and regardless of whether the amount paid by CIGA  
36 is adequate to discharge a claim obligation, neither the  
37 self-insured employer, group of employers, nor the Self-Insurers'  
38 Security Fund, shall have any obligation to pay benefits over and  
39 above the specific or aggregate retention, except as provided in  
40 this subdivision.

1 (c) In the event that the benefits paid on the covered claim  
2 exceed the per claim limit in paragraph (7) of subdivision (c), the  
3 responsibility for paying, adjusting, and defending the claim shall  
4 be returned to the permissibly self-insured employer or group of  
5 employers, or the Self-Insurers' Security Fund.

6 These provisions shall apply to all pending and future  
7 insolvencies. For purposes of this paragraph, a pending  
8 insolvency is one involving a company that is currently receiving  
9 benefits from the guaranty association.

10 (d) "Admitted to transact insurance in this state" means an  
11 insurer possessing a valid certificate of authority issued by the  
12 department.

13 (e) "Affiliate" means a person who directly or indirectly,  
14 through one or more intermediaries, controls, is controlled by, or  
15 is under common control with an insolvent insurer on December  
16 31 of the year next preceding the date the insurer becomes an  
17 insolvent insurer.

18 (f) "Control" means the possession, direct or indirect, of the  
19 power to direct or cause the direction of the management and  
20 policies of a person, whether through the ownership of voting  
21 securities, by contract other than a commercial contract for goods  
22 or nonmanagement services, or otherwise, unless the power is the  
23 result of an official position with or corporate office held by the  
24 person. Control is presumed to exist if any person, directly or  
25 indirectly, owns, controls, holds with the power to vote, or holds  
26 proxies representing, 10 percent or more of the voting securities  
27 of any other person. This presumption may be rebutted by  
28 showing that control does not in fact exist.

29 (g) "Claimant" means any insured making a first party claim  
30 or any person instituting a liability claim; provided that no person  
31 who is an affiliate of the insolvent insurer may be a claimant.

32 (h) "Ocean marine insurance" includes marine insurance as  
33 defined in Section 103, except for inland marine insurance, as  
34 well as any other form of insurance, regardless of the name,  
35 label, or marketing designation of the insurance policy, that  
36 insures against maritime perils or risks and other related perils or  
37 risks, which are usually insured against by traditional marine  
38 insurance such as hull and machinery, marine builders' risks, and  
39 marine protection and indemnity. Those perils and risks insured  
40 against include, without limitation, loss, damage, or expense or

1 legal liability of the insured arising out of or incident to  
2 ownership, operation, chartering, maintenance, use, repair, or  
3 construction of any vessel, craft or instrumentality in use in  
4 ocean or inland waterways, including liability of the insured for  
5 personal injury, illness, or death for loss or damage to the  
6 property of the insured or another person.

7 (i) “Unearned premium” means that portion of a premium that  
8 had not been earned because of the cancellation of the insolvent  
9 insurer’s policy and is that premium remaining for the unexpired  
10 term of the insolvent insurer’s policy. “Unearned premium” does  
11 not include any amount sought as return of a premium under any  
12 policy providing retroactive insurance of a known loss or return  
13 of a premium under any retrospectively rated policy or a policy  
14 subject to a contingent surcharge or any policy in which the final  
15 determination of the premium cost is computed after expiration  
16 of the policy and is calculated on the basis of actual loss  
17 experience during the policy period.

18 *SEC. 3.75. Section 1063.5 of the Insurance Code is amended*  
19 *to read:*

20 1063.5. Each time an insurer becomes insolvent then, to the  
21 extent necessary to secure funds for the association for payment  
22 of covered claims of that insolvent insurer and also for payment  
23 of reasonable costs of adjusting the claims, the association shall  
24 collect premium payments from its member insurers sufficient to  
25 discharge its obligations. The association shall allocate its claim  
26 payments and costs, incurred or estimated to be incurred, to one  
27 or more of the following categories: (a) workers’ compensation  
28 claims; (b) homeowners’ claims, and automobile claims, which  
29 shall include: automobile material damage, automobile liability  
30 (both personal injury and death and property damage), medical  
31 payments and uninsured motorist claims; and (c) claims other  
32 than workers’ compensation, homeowners’, and automobile, as  
33 above defined. Separate premium payments shall be required for  
34 each category. The premium payments for each category shall be  
35 used to pay the claims and costs allocated to that category. The  
36 rate of premium charged shall be a uniform percentage of net  
37 direct written premium in the preceding calendar year applicable  
38 to that category. The rate of premium charges to each member in  
39 the appropriate categories shall initially be based on the written  
40 premium of each insurer as shown in the latest year’s annual

1 financial statement on file with the commissioner. The initial  
2 premium shall be adjusted by applying the same rate of premium  
3 charge as initially used to each insurer's written premium as  
4 shown on the annual statement for the second year following the  
5 year in which the initial premium charge is made. The difference  
6 between the initial premium charge and the adjusted premium  
7 charge shall be charged or credited to each member insurer by  
8 the association as soon as practical after the filing of the annual  
9 statements of the member insurers with the commissioner for the  
10 year on which the adjusted premium is based. ~~In~~ *Any credit due*  
11 *in a specific category to a member insurer as a result of the*  
12 *adjusted premium calculation may be refunded to the member*  
13 *insurer at the discretion of association if the member insurer has*  
14 *agreed with the commissioner to no longer write insurance in*  
15 *that category but has not withdrawn from the state and*  
16 *surrendered its certificate of authority. However, in the case of*  
17 *an insurer that was a member insurer when the initial premium*  
18 *charge was made and that paid the initial assessment but is no*  
19 *longer a member insurer at the time of the adjusted premium*  
20 *charge by reason of its insolvency or its withdrawal from the*  
21 *state and surrender of its certificate of authority to transact*  
22 *insurance in this state, any credit accruing to that insurer shall be*  
23 *refunded to it by the association. "Net direct written premiums"*  
24 *shall mean the amount of gross premiums, less return premiums,*  
25 *received in that calendar year upon business done in this state,*  
26 *other than premiums received for reinsurance. In cases of a*  
27 *dispute as to the amount of the net direct written premium*  
28 *between the association and one of its members the written*  
29 *decision of the commissioner shall be final. The premium*  
30 *charged to any member insurer for any of the three categories or*  
31 *a category established by the association shall not be more than 2*  
32 *percent of the net direct premium written in that category in this*  
33 *state by that member per year, starting on January 1, 2003, until*  
34 *December 31, 2007, and thereafter shall be one percent per year.*  
35 *The association may exempt or defer, in whole or in part, the*  
36 *premium charge of any member insurer, if the premium charge*  
37 *would cause the member insurer's financial statement to reflect*  
38 *an amount of capital or surplus less than the minimum amounts*  
39 *required for a certificate of authority by any jurisdiction in which*  
40 *the member insurer is authorized to transact insurance. However,*

1 during the period of deferment, no dividends shall be paid to  
2 shareholders or policyholders by the company whose premium  
3 charge was deferred. Deferred premium charges shall be paid  
4 when the payment will not reduce capital or surplus below  
5 required minimums. These payments shall be credited against  
6 future premium charges to those companies receiving larger  
7 premium charges by virtue of the deferment. After all covered  
8 claims of the insolvent insurer and expenses of administration  
9 have been paid, any unused premiums and any reimbursements  
10 or claims dividends from the liquidator remaining in any  
11 category shall be retained by the association and applied to  
12 reduce future premium charges in the appropriate category.  
13 However, an insurer which ceases to be a member of the  
14 association, other than an insurer that has become insolvent or  
15 has withdrawn from the state and has surrendered its certificate  
16 of authority following an initial assessment that is entitled to a  
17 refund based upon an adjusted assessment as provided above in  
18 this section, shall have no right to a refund of any premium  
19 previously remitted to the association. The commissioner may  
20 suspend or revoke the certificate of authority to transact business  
21 in this state of a member insurer which fails to pay a premium  
22 when due and after demand has been made.

23 Interest at a rate equal to the current federal reserve discount  
24 rate plus 2 ½ percent per annum shall be added to the premium of  
25 any member insurer which fails to submit the premium requested  
26 by the association within 30 days after the mailing request.  
27 However, in no event shall the interest rate exceed the legal  
28 maximum.

29 SEC. 4. Section 1064.13 is added to the Insurance Code, to  
30 read:

31 1064.13. (a) Upon receipt of a notice of liquidation the  
32 commissioner shall cease imposing, billing or collecting fees and  
33 assessments against the subject company pursuant to this code.

34 (b) Upon receipt of a notice of conservation or administrative  
35 supervision the commissioner may cease to impose, bill, or  
36 collect fees against the subject company pursuant to this code.  
37 Following the date the order has been lifted the commissioner  
38 may once again impose, bill, or collect fees against the subject  
39 company.

1 (c) Upon receipt of a notice of liquidation all outstanding  
2 invoices, billings or assessments pursuant to this code prior to the  
3 date of the notice shall be cancelled.

4 (d) Upon issuance of a notice of conservation or  
5 administrative supervision, outstanding amounts due from the  
6 subject company imposed prior to the date of the conservation or  
7 administrative supervision, may be held in abeyance and remain  
8 unpaid until the conservation or administrative supervision is  
9 terminated. Late filing fees accrued pursuant to Section 12995 of  
10 this code shall not be imposed.

11 (e) If it is determined that an insurer is in any of the conditions  
12 enumerated in Section 1011, and it is determined that all  
13 available funds are needed to pay policyholders, the  
14 commissioner may suspend the imposition of fees or assessments  
15 until the condition of the insurer has improved to the extent  
16 where payment of fees or assessments will not harm  
17 policyholders.

18 SEC. 5. Section 1215.13 of the Insurance Code is amended to  
19 read:

20 1215.13. (a) For the purposes of this article only, every  
21 foreign insurer, except an insurer described in Article 2  
22 (commencing with Section 12350) of Chapter 1 of Part 6 of  
23 Division 2, that is authorized to do business in this state and that,  
24 during its three preceding fiscal years taken together, or during  
25 any lesser period of time if it has been licensed to transact its  
26 business in California only for such lesser period of time, has  
27 written an average of more direct premiums in the State of  
28 California than it has written in its state of domicile during the  
29 same period, and those direct premiums written constitute 33  
30 percent or more of its total direct premiums written everywhere  
31 in the United States for that three-year or lesser period, as  
32 reported in its three most recent annual statements, shall be  
33 deemed a “commercially domiciled insurer” within the State of  
34 California.

35 (b) The commissioner may exempt from the provisions of this  
36 article any commercially domiciled insurer made subject to this  
37 article by subdivision (a) if he or she determines that it has a  
38 sufficiently large amount of assets and the evidences of title  
39 thereto physically located in California, or that the ratio of those  
40 assets to its California policyholder liability is sufficiently large,

1 as to justify the conclusion that there is no reasonable danger that  
2 the operations or conduct of the business of the insurer could  
3 present a danger of loss to California policyholders. The  
4 commissioner may also exempt from the provisions of this article  
5 any commercially domiciled insurer made subject to this article  
6 by subdivision (a) under the circumstances that he or she deems  
7 appropriate.

8 (c) This section does not exempt any foreign insurer that is  
9 authorized to do business in this state, including a commercially  
10 domiciled insurer, from the provisions of any other sections of  
11 this article that may be applicable to the insurer.

12 *SEC. 5.5. Section 1656 of the Insurance Code is amended to*  
13 *read:*

14 1656. Every applicant for an organizational license shall  
15 provide the names of all persons who may exercise the power  
16 and perform the duties under the license. *Applicants for a*  
17 *nonresident organizational license must name at least one person*  
18 *from their home state who may exercise the power and perform*  
19 *the duties under their license. Additional persons endorsed to*  
20 *that license may be residents of another state, but may not be*  
21 *residents of California.*

22 *SEC. 6. Section 1676 of the Insurance Code is amended to*  
23 *read:*

24 1676. (a) Except as set forth in Sections 1675 and 1679, the  
25 commissioner shall not issue a permanent license pursuant to this  
26 chapter to an applicant therefor unless the applicant has within  
27 the 12-month period next preceding the date of issue of the  
28 license taken and passed the qualifying examination for that  
29 license. This section shall not apply to a person licensed as a fire  
30 and casualty broker-agent who applies for a license as a personal  
31 lines broker-agent.

32 (b) An applicant for a personal lines license pursuant to  
33 Section 1625.5 who has been continually employed by an  
34 admitted insurer or licensed fire and casualty broker-agent in a  
35 full-time position for at least three years immediately prior to  
36 January 1, 2001, shall be exempted, at the discretion of the  
37 commissioner, from having to take and pass an examination to  
38 obtain a personal lines license. An exempted applicant shall be  
39 required to comply with all other provisions of this article  
40 pertaining to the issuance and maintenance of a personal lines

1 license. The curriculum board shall establish criteria, which shall  
2 be submitted to the commissioner for final approval, to allow  
3 experience or prior training to be substituted for prelicensing  
4 educational requirements for applicants applying for an  
5 exemption pursuant to this subdivision. A licensee exempted  
6 from examination pursuant to this subdivision shall remain  
7 subject to all continuing education requirements applicable to  
8 maintaining a personal lines license.

9 (c) An application for a personal lines license shall be  
10 submitted to the commissioner as provided for in Article 4  
11 (commencing with Section 1652).

12 (d) The commissioner may deny any application for a personal  
13 lines license as provided in Article 6 (commencing with Section  
14 1666).

15 (e) In addition to the application, any applicant for a personal  
16 lines license seeking exemption from the examination provisions  
17 of this chapter shall also submit, on a form prescribed by the  
18 commissioner, or if a form is not prescribed, in letter or resumé  
19 form, information that will permit the commissioner to determine  
20 whether the previous experience of the applicant for a personal  
21 lines license warrants an exemption from having to take an  
22 examination to obtain a license.

23 (f) The commissioner shall require an applicant for a personal  
24 lines license to take an examination to obtain a license if the  
25 commissioner determines that the applicant has failed to  
26 demonstrate that previous experience warrants an exemption  
27 from examination. In the absence of making that determination,  
28 the request for exemption from examination shall be granted.

29 (g) This section shall not be applicable to any applicant for a  
30 nonresident license pursuant to subdivision (b) of Section 1639.

31 (h) This section shall not be applicable to any applicant for a  
32 personal lines license who has been refused a license or has had a  
33 license suspended or revoked by the commissioner.

34 (i) An applicant for a personal lines license pursuant to Section  
35 1625.5 who seeks an exemption from an examination to obtain a  
36 license shall submit a request to that effect to the commissioner.  
37 An applicant who does not submit an application on or before  
38 December 31, 2001, shall be required to take an examination to  
39 obtain a license.

1 (j) An applicant for a life agent license pursuant to Section  
2 1626 who is limited by the terms of a written agreement with an  
3 insurer which has filed on that life agent's behalf a notice of  
4 appointment with the commissioner to transact only specific life  
5 insurance policies or annuities having an initial face amount of  
6 fifteen thousand dollars (\$15,000) or less that are designated by  
7 the purchaser for the payment of funeral and burial expenses,  
8 shall not be required to take the full life agent examination to  
9 obtain a license. The applicant shall be required to take an  
10 examination developed to test their knowledge of topics relevant  
11 to the type of policies that they are restricted to sell.

12 *SEC. 6.5. Section 1679 of the Insurance Code is amended to*  
13 *read:*

14 1679. (a) A nonresident applicant for a license shall be  
15 subject to the same qualifying examination as is required of a  
16 resident applicant. The examination may be administered to an  
17 eligible nonresident applicant through the insurance authority of  
18 the state, territory of the United States, or province of Canada of  
19 his or her residence; provided, however, that the commissioner  
20 may, in his or her discretion, enter into a reciprocal arrangement  
21 with the officer having supervision of the insurance business in  
22 any other state, territory of the United States, or province of  
23 Canada whose qualification standards for the applicant to be  
24 examined are substantially the same as or in excess of those of  
25 this state, to accept, in lieu of the examination of an applicant  
26 residing therein, a certificate of the officer to the effect that the  
27 applicant is licensed in that state, territory of the United States, or  
28 province of Canada in a capacity similar to that for which a  
29 license is sought in this state and has complied with its  
30 qualification standards in respect to the following:

31 (1) Experience or training,  
32 (2) Reasonable familiarity with the broad principles of  
33 insurance licensing and regulatory laws and with the provisions,  
34 terms and conditions of the insurance which the applicant  
35 proposes to transact, and

36 (3) A fair and general understanding of the obligations and  
37 duties of a holder of the license sought.

38 (b) The provisions of this section shall not apply to a  
39 nonresident applicant who maintains a license in a jurisdiction

1 that grants reciprocity to California residents in accordance with  
2 Section 1638.5.

3 *(c) A nonresident applicant for an organizational license must*  
4 *name at least one person from their home state who may exercise*  
5 *the power and perform the duties under their license. Additional*  
6 *persons endorsed to that license may be residents of another*  
7 *state, but may not be residents of California.*

8 SEC. 7. Section 1707 of the Insurance Code is amended to  
9 read:

10 1707. Except as otherwise provided in Section 1704.5, each  
11 notice of appointment or notice of termination of appointment  
12 filed pursuant to this article shall be filed on forms prescribed by  
13 the commissioner within 15 days of appointment or termination.

14 SEC. 8. Section 1733 of the Insurance Code is amended to  
15 read:

16 1733. All funds received by any person acting as an insurance  
17 agent, broker, or solicitor, life agent, life analyst, surplus line  
18 broker, special lines surplus line broker, motor club agent, bail  
19 agent, permittee, administrator as defined in Section 1759, or  
20 solicitor, as premium or return premium on or under any policy  
21 of insurance or undertaking of bail, are received and held by that  
22 person in his or her fiduciary capacity. Any such person who  
23 diverts or appropriates those fiduciary funds to his or her own use  
24 is guilty of theft and punishable for theft as provided by law. Any  
25 premium that a premium financier agrees to advance pursuant to  
26 the terms of a premium finance agreement shall constitute  
27 fiduciary funds as defined in this section only if actually received  
28 by a person licensed in one or more of the capacities herein  
29 specified.

30 SEC. 9. Section 1749 of the Insurance Code is amended to  
31 read:

32 1749. The department shall require all new applicants for  
33 license as a fire and casualty broker-agent, personal lines  
34 broker-agent, or as a life agent to meet prelicensing education  
35 standards as follows:

36 (a) Require a minimum of 40 hours of prelicensing classroom  
37 study as a prerequisite to qualification for a fire and casualty  
38 broker-agent license. The curriculum for satisfying this  
39 requirement shall be approved by the curriculum board and  
40 submitted to the commissioner for final approval. Any additions

1 to the minimum requirements provided by this section shall be  
2 approved by the curriculum board pursuant to Section 1749.1 and  
3 certified by the department.

4 (b) Require a minimum of 20 hours of prelicensing classroom  
5 study as a prerequisite for qualification for a personal lines  
6 broker-agent license. The curriculum for satisfying this  
7 requirement shall be approved by the curriculum board and  
8 submitted to the commissioner for final approval. Any additions  
9 to the minimum requirements provided by this section shall be  
10 approved by the curriculum board pursuant to Section 1749.1 and  
11 certified by the department.

12 (c) Require a minimum of 40 hours of prelicensing classroom  
13 study as a prerequisite for qualification for a life agent license.  
14 The curriculum for satisfying this requirement shall be approved  
15 by the curriculum board and submitted to the commissioner for  
16 final approval. Any additions to the minimum requirements  
17 provided by this section shall be approved by the curriculum  
18 board pursuant to Section 1749.1 and certified by the department.  
19 This curriculum shall also include instruction in workers'  
20 compensation and general principles of employers' liability.

21 (d) In addition to the 40 hours prelicensing education required  
22 to qualify for a license as a fire and casualty broker-agent or life  
23 agent, or the 20 hours prelicensing education required to qualify  
24 for a license as a personal lines broker-agent, the department  
25 shall require 12 hours of study on ethics and this code. Where an  
26 applicant seeks a license for both the fire and casualty  
27 broker-agent license and the life license, the applicant shall only  
28 be required to complete one 12-hour course on ethics and this  
29 code. The curriculum for satisfying this requirement shall be  
30 approved by the curriculum board and submitted to the  
31 commissioner for final approval.

32 (e) An applicant for a life agent license, a fire and casualty  
33 broker-agent license, or a personal lines broker-agent license who  
34 is currently licensed as such in another state and who has  
35 completed 40 hours of prelicensing education as a requirement  
36 for licensing in that state shall be required to complete only the  
37 course of study on ethics and the Insurance Code, as required by  
38 Section 1749. Additionally, any applicant for such a license  
39 holding one or more of the designations specified in subdivisions  
40 (a) to (e), inclusive, of Section 1749.4 shall be exempted from

1 any requirement for courses in general insurance that would  
2 otherwise be a condition of issuance of the license.

3 (f) An applicant for a fire and casualty broker-agent license  
4 who is licensed as a personal lines agent shall complete a  
5 minimum of 20 hours prelicensing classroom study as a  
6 prerequisite. The curriculum for satisfying this requirement shall  
7 be approved by the curriculum board and submitted to the  
8 commissioner for final approval. The applicant shall not be  
9 required to repeat any prelicensing requirements completed as a  
10 prerequisite to being licensed as a personal lines agent.

11 (g) Prelicensing certificates of completion expire three years  
12 from the completion date of the course, whether or not a license  
13 is issued.

14 SEC. 10. Section 1775.4 of the Insurance Code is amended to  
15 read:

16 1775.4. (a) The amount of the payment shall be 3 percent of  
17 the gross premiums less return premiums upon business done by  
18 the surplus line broker under the authority of his or her license  
19 during the calendar month ending two calendar months  
20 immediately preceding the due date of the payment, as specified  
21 in Section 1775.3, excluding gross premiums and return  
22 premiums paid by him or her upon business governed by the  
23 provisions of Section 1760.5. If during any calendar month those  
24 return premiums upon business done by a surplus line broker  
25 exceed the gross premiums upon the business done by him or her  
26 in that calendar month, then no payment shall be payable by him  
27 or her in respect to that calendar month, and he or she may carry  
28 forward that excess to the next succeeding calendar month or  
29 months and apply it in reduction of the taxable premiums on  
30 business done by him or her in that succeeding calendar month or  
31 months. Even though no payment shall be payable by the broker,  
32 he or she shall file a return showing that his or her return  
33 premiums exceeded his or her gross premiums.

34 (b) In determining the applicability of subdivision (a) of  
35 Section 1775.1 to a surplus line broker who has acquired the  
36 business of another surplus line broker, the amount of tax  
37 liability of the acquired broker for the immediately preceding  
38 calendar year shall be added to the amount of the tax liability of  
39 the acquiring broker for the immediately preceding calendar year.

1 (c) All amounts paid, other than penalties and interest, shall be  
2 allowed as a credit on the annual tax imposed by Section 1775.5.

3 (d) If the total amount of monthly installment payments for  
4 any calendar year exceeds the amount of annual tax for that year,  
5 the excess shall be treated as an overpayment of annual tax and  
6 be allowed as a credit or refund.

7 (e) A penalty of 10 percent of the amount of the monthly  
8 payment due shall be levied upon and paid by any surplus line  
9 broker who fails to make the necessary payment within the time  
10 required, plus interest at the rate of 1 percent per calendar month  
11 or fraction thereof from the due date of the payment until the date  
12 payment is received by the commissioner, but not for any period  
13 after the due date of the annual tax. The penalty and interest shall  
14 be applied as prescribed in Section 12636.5 of the Revenue and  
15 Taxation Code. The commissioner may remit the penalty in a  
16 case where he or she finds, as a result of examination or  
17 otherwise, that the failure of, or delay in, payment arose out of  
18 excusable mistake or excusable inadvertence.

19 (f) For any part of a payment required that was not made  
20 within the time required by law, when the nonpayment or late  
21 payment was due to fraud on the part of the taxpayer, a penalty  
22 of 25 percent of the amount unpaid shall be added thereto, in  
23 addition to all other penalties otherwise imposed.

24 (g) The commissioner, upon a showing of good cause, may  
25 extend for not to exceed 10 days the time for making a monthly  
26 payment. The extension may be granted at any time, provided  
27 that a request therefor is filed with the commissioner within or  
28 prior to the period for which the extension may be granted. Any  
29 surplus line broker to whom an extension is granted shall, in  
30 addition to the monthly payment, pay interest at the rate of 1  
31 percent per month, or fraction thereof, from the due date until the  
32 annual tax due date.

33 SEC. 11. Section 1808 of the Insurance Code is amended to  
34 read:

35 1808. (a) Annual notices of intention to keep licenses in  
36 force or applications for renewal of licenses, as the case may be,  
37 may be filed on or before June 30th of each year upon payment  
38 of the fees for filing specified in Section 1811.

39 (b) Upon failure to file such notice or application as provided  
40 in subdivision (a), the license shall expire on July 1st, but the

1 holder may file an application for a new license. Until June 30th  
2 next succeeding the fee shall be twice that specified in Section  
3 1811 for such filing.

4 (c) No notice or application shall be deemed filed within the  
5 meaning of this section unless the document itself has been  
6 actually delivered to, and the proper fee for its filing has been  
7 paid at, the office of the commissioner during office hours, or  
8 unless both such document and fee have been filed and remitted  
9 pursuant to Sections 11002 and 11003 of the Government Code.

10 *SEC. 11.5. Section 11521.6 of the Insurance Code is amended*  
11 *to read:*

12 11521.6. Nothing contained in Section 11521, 11521.1,  
13 11521.2, 11521.4, 11523.6, or ~~subdivision (e)~~ *paragraph (6) of*  
14 *subdivision (a)* of Section 11523 shall apply to any grants and  
15 annuities certificate holder that also holds a certificate of  
16 authority pursuant to Article 3 (commencing with Section 699) of  
17 Chapter 1 of Part 2 of Division 1. *A grants and annuities*  
18 *certificate holder subject to this section shall display clearly and*  
19 *conspicuously, and in the type specified, the disclosure required*  
20 *by paragraph (7) of subdivision (a) of Section 11523 in all*  
21 *agreements issued under this chapter.*

22 *SEC. 12. Section 11549 is added to the Insurance Code, to*  
23 *read:*

24 11549. (a) Pursuant to this section, a mutual holding  
25 company may merge into a foreign mutual holding company that  
26 is domiciled in a state to which the converted insurer has  
27 transferred its domicile or will transfer its domicile concurrently  
28 with the merger. The merger shall be effected pursuant to an  
29 agreement of merger between the mutual holding company and  
30 the foreign mutual holding company in accordance with the  
31 General Corporation Law, to the extent not inconsistent with this  
32 section. The merger shall take effect upon filing the agreement of  
33 merger with the California Secretary of State after compliance  
34 with the following:

35 (1) Approval of the agreement of merger by a resolution of the  
36 majority of the board of directors of the mutual holding company  
37 and signing of the agreement of merger by the parties thereto.

38 (2) Approval of an amendment to the converted insurer's plan  
39 of conversion in accordance with Section 11547 by a resolution  
40 of the majority of the board of directors of the converted insurer

1 in order to reflect appropriately the merger and transfer of  
2 domicile.

3 (3) Submission of the agreement of merger and the  
4 amendment to the commissioner for consent in writing.

5 (4) Approval of the agreement of merger by a majority of the  
6 members of the mutual holding company who vote at a meeting  
7 called for that purpose.

8 (5) Approval of the amendment by a majority of the members  
9 of the mutual holding company who were members of the  
10 converted insurer and were entitled to vote on the original plan of  
11 conversion approved pursuant to subdivision (c) of Section  
12 11536 and who vote at a meeting called for the purpose.

13 (6) Filing of the agreement of merger in the office of the  
14 commissioner after having been consented to and approved as  
15 contemplated by paragraphs (2), (3), (4), and (5).

16 (b) The submission to the commissioner prescribed in  
17 paragraph (3) of subdivision (a) shall be accompanied by a filing  
18 fee of eight thousand one hundred dollars (\$ 8,100), evidence  
19 that the foreign mutual holding company that will survive the  
20 merger is qualified as a foreign corporation under the General  
21 Corporation Law, and any other relevant information that the  
22 commissioner may require.

23 (c) The meetings of members prescribed in paragraphs (4) and  
24 (5) of subdivision (a) and shall be called by the board of  
25 directors, the chairperson of the board, or the president of the  
26 mutual holding company, and may be combined at a single  
27 meeting with separate voting by those eligible to vote on the  
28 matters referred to in paragraphs (4) and (5) of subdivision (a).  
29 Notice of the meeting shall be given by mail to members entitled  
30 to vote at the meeting at least 30 days prior to the date set for the  
31 meeting. Voting shall be by ballot, in person, or by proxy. A  
32 quorum for each such matter consists of 5 percent of the  
33 members of the mutual holding company entitled to vote at the  
34 meeting on ~~such~~ *the* matter.

35 (d) The commissioner shall consent to any proposed merger  
36 and amendment if he or she determines that the merger will be  
37 fair and equitable to the mutual holding company and its  
38 members.

39 SEC. 13. Section 11558 of the Insurance Code is amended to  
40 read:

1 11558. The minimum reserve requirements prescribed by the  
2 commissioner in regulations promulgated pursuant to Section  
3 923.5 for outstanding losses and loss expenses for each of the  
4 most recent three years for coverages included in the lines of  
5 business described in the annual statement as liability other than  
6 automobile bodily injury and automobile liability bodily injury  
7 shall be not less than 60 percent of earned premiums during each  
8 year less the amount already paid for losses and expenses  
9 incidental thereto incurred during each such year.

10 The commissioner may prescribe the manner and form of  
11 reporting pertinent information concerning the reserves provided  
12 for in this section.

13 SEC. 14. Section 11629.85 of the Insurance Code is amended  
14 to read:

15 11629.85. (a) On or before March 1 of each year, the  
16 commissioner shall prepare and propose a plan to the Senate  
17 Committee on Banking, Finance, and Insurance and the  
18 Assembly Committee on Insurance setting forth the methods the  
19 commissioner intends to implement to inform households eligible  
20 for the program about the availability of low-cost automobile  
21 insurance. To be eligible for funding through the budget process,  
22 the plan shall be reviewed by the Senate Committee on Banking,  
23 Finance, and Insurance and the Assembly Committee on  
24 Insurance. The information required under subdivision (c) shall  
25 also be provided to the Senate Committee on Transportation and  
26 Housing and the Assembly Committee on Transportation.

27 (b) The plan shall include, at a minimum, a brief description of  
28 methods proposed to be used, anticipated costs, sources of  
29 revenue, goals, targets, objectives, and a justification of the  
30 proposed methods. The plan shall also explain how the  
31 department proposes to work in cooperation with the California  
32 Automobile Assigned Risk Plan, the social service departments  
33 in eligible counties, the Department of Motor Vehicles, and  
34 community-based organizations in order to inform eligible  
35 households of the existence of the program.

36 (c) The plan shall also include all of the following:

37 (1) The commissioner's determination regarding whether the  
38 program has been successful, based on the criteria specified in  
39 subdivision (d), and an explanation regarding that success or lack  
40 thereof.

1 (2) In cooperation with the California Automobile Assigned  
2 Risk Plan, structural characteristics of the program that may  
3 require statutory revision in order for the program to succeed or  
4 to improve upon existing success.

5 (3) Impediments to success of the program that can reasonably  
6 be overcome by revision to the strategies adopted by the  
7 department.

8 (4) A detailed explanation of the department's use for the  
9 program of funds assessed pursuant to Section 1872.81.

10 (5) For the previous calendar year, a list of the total low-cost  
11 auto premium for each county in which the program was  
12 available.

13 (6) The most recent annual report to the Legislature on the  
14 status of the low-cost automobile insurance program from the  
15 California Automobile Assigned Risk Plan.

16 (d) The program is successful if the following occur:

17 (1) The program generated sufficient premiums to cover losses  
18 incurred under policies issued under the program, and expenses  
19 incurred by the program, as calculated pursuant to subdivision (c)  
20 of Section 11629.72.

21 (2) The program served the public purpose of offering access  
22 to automobile insurance to otherwise underserved communities  
23 in the program areas.

24 (3) The program offered access to automobile insurance to  
25 previously uninsured motorists seeking affordable coverage in  
26 the program areas.

27 (e) Any written or oral advertisements, including, but not  
28 limited to, paid or unpaid commercial or noncommercial  
29 advertising, by the department with reference to the low-cost  
30 automobile insurance program shall reference the department and  
31 shall not reference the commissioner by name or office, or  
32 include the commissioner's voice, image, or likeness. The  
33 department shall not participate with any nongovernmental entity  
34 that produces or intends to produce advertisements or educational  
35 material that include the name of the commissioner or his or her  
36 voice, image or likeness, and that are intended to make eligible  
37 households aware of the existence of low-cost automobile  
38 insurance.

39 SEC. 15. Section 12253 of the Revenue and Taxation Code is  
40 amended to read:

1 12253. Each insurer required to make prepayments shall  
2 remit them on or before each of the dates of April 1st, June 1st,  
3 September 1st and December 1st of the current calendar year.  
4 Remittances for prepayments shall be made payable to the  
5 Controller and shall be delivered to the office of the  
6 commissioner, accompanied by a prepayment form prescribed by  
7 the commissioner.

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